

Meeting of 2011-6-28 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JUNE 28, 2011 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Fred L. Fitch                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   Frank V. Jensen, City Attorney  
   Traci Hushbeck, City Clerk  
COL Paul Hossenlopp, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:23 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Lloyd Grubbs, Trinity Assembly of God, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Michael Tennis, Ward Two  
Jay Burk, Ward Four  
Rex Givens, Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
   Doug Wells, Ward Eight

ABSENT:                      Rosemary Bellino-Hall, Ward Three

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF APRIL 26 AND MAY 24, 2011.

MOVED by Burk, SECOND by Givens to approve the minutes of the Lawton City Council regular meetings of April 26 and May 24, 2011. AYE: Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Fitch requested item #14. be considered separately.

MOVED by Givens SECOND by Burk to approve the consent agenda with the exception of item #14. AYE: Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

1. Consider renewing the professional services agreement with Mackey Law Firm, to provide professional property research services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk s Office.
2. Consider renewing the professional services agreement with John C. Mackey, for various matters involving real property, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk s Office.
3. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and John C. Mackey, Jr., and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk s Office.
4. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and John C. Mackey, Jr., and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional & Legal Services is on file in the City Clerk s Office.

5. Consider extending the Agreement for Administrative Professional Services with Jennifer Cargill, to work as a fill-in Legal Assistant in the City Attorney's Office, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk's Office.
6. Consider approving a resolution extending the provisions of the FY 2010-2011 Collective Bargaining Agreement between the City of Lawton and AFSCME Local 3894 from July 1, 2011 until 11:59 pm on October 31, 2011. Exhibits: **Resolution 11-53**.
7. Consider approval of the Memorandum of Agreement between the Oklahoma Department of Environmental Quality and the City of Lawton for the transfer of the Lawton Armory from the Oklahoma National Guard to the City of Lawton, and authorize the Mayor to execute the Agreement. Exhibits: Memorandum of Agreement.
8. Consider approving a renewal Agreement between the City of Lawton and the Marie Detty Youth and Family Service Center, Inc. for the continued operation and management of the Community Intervention Center in Lawton and authorize execution of the renewal Agreement and any associated documents. Exhibits: Agreement with Marie Detty Youth and Family Service Center, Inc., is on file in the City Clerks Office.
9. Consider approval of a professional services contract with Dr. Robert William Worden, D.O., to work as the Physician Medical Director for the Lawton Fire Department and for the City of Lawton/Comanche County E-911 Dispatch Center, and authorize the Mayor and City Clerk to execute the contract. Exhibits: Professional Services Agreement.
10. Consider approving the annual Cooperative Agreement and an Agreement for Limited Funding between the City and Transit Trust to provide funds for the operation of a public transit system and authorize the Mayor and City Clerk to execute the same. Exhibits: Cooperative Agreement and Limited Funding Agreement are on file in the City Clerk's office.
11. Consider approving payment of \$730.00 to Mr. Ralph Davis for the replacement of a portion of the residential driveway located at 1613 NW 34<sup>th</sup> St which was demolished in the course of completing a City waterline replacement project. Exhibits: Proposed release agreement between the City of Lawton and Mr. Davis.
12. Consider approval of a lease agreement with Teen Court Inc, of Lawton, Oklahoma for the use of Carnegie Town Hall Library for the purpose of promoting delinquency prevention, reducing teenage misdemeanor offenses, and increasing awareness of good citizenship for offenders and volunteers. Exhibits: Contract Agreement with Teen Court Inc., Letter of request from director of Teen Court Inc.
13. Consider approving an agreement with Dewberry and Davis, LLC. for professional engineering design services for the 2011 All Hazards Mitigation Plan. Exhibits: Engineering Agreement is on file in the City Clerk's office.
14. Consider adopting a City Council resolution to support an Oklahoma Affordable Housing Tax Credit (OAHTC) application by Zimmerman Properties, LLC to the Oklahoma Housing Finance Agency (OHFA) and authorize the Mayor and City Clerk to execute the document. Exhibits: Exhibit A: Resolution of Support.

Wells stated that Councilmember Bellino has spoken with him and she has requested that the council not support this resolution for the project on NW 40<sup>th</sup> Street.

MOVED by Wells SECOND by Zarle to deny the resolution.

Tim Libby, Housing and Community Development, stated that Zimmerman Properties are looking at building behind Home Depot and also on the east side off of Lee Boulevard. These are both sixty units, both will be affordable housing units for low/moderate income. They will be price regulated and they will have to follow HUD guidelines. This is similar request made at a previous meeting. He stated this will be a low income tax credit project sponsored by the State of Oklahoma, they follow IRS guidelines.

Burk stated these are coming out of the woodwork and they are picking areas that just don't make any sense and he just cannot support this.

Haywood questioned where the project is on Lee. He questioned why these two projects were not put on the agenda separately.

Wells suggested they deny both tonight and they can bring back the one on Lee.

Mitchell stated the council has the ability to pass the resolution with one project and not the other.

Jensen stated they can make an amendment on the floor as long as they are clear what the motion is. He stated

there would be a recommended motion to approve the resolution with the exception of the language and one located on NW 40<sup>th</sup> Street, north of NW Elm Avenue.

Wells stated Councilmember Bellino wants it denied.

Mitchell stated the action tonight is just to approve the resolution, so if they strike the location on NW 40<sup>th</sup>, they are only approving the resolution for the one on Skyline Drive.

Wells stated he does not want to change his motion.

Shoemate stated we are short of this type of housing for the lower grade troops.

Wells stated there are other areas of town.

Shoemate questioned what other areas do they want to put these?

Wells stated he has areas in ward 8 that would support these easily.

Burk stated on 40<sup>th</sup> Street this is a million dollar property to build low income apartments.

Shoemate stated he is getting tire of everyone coming to the council and wanting them to vote no on these types of projects. He stated they need to have the foresight to get things done and voting no every time is not going to get it done.

Burk stated it is not the concept of having low rent apartments, it is the concept of where they are locating them.

Haywood stated there are not very many people in that area surrounding the project on Lee.

Burk stated he has gotten calls from some people because they thought it was his ward.

Haywood feels these two projects should be separated and brought back.

Mitchell stated there is a timing issue with submitting these applications. He stated July 12<sup>th</sup> would be too late for the applications.

Haywood stated there are not too many people on that street.

Jensen questioned if they were trying to excise out the NW 40<sup>th</sup> Street site.

Haywood stated yes.

Jensen state the motion would need to approve the resolution with the exception of the language in the first paragraph which states and one located on NW 40<sup>th</sup> Street, north of NW Elm Avenue.

Givens stated he needed clarification.

Jensen stated the substitute motion would be to approve the resolution with the exception of the language in the first Whereas paragraph and one located on NW 40<sup>th</sup> Street, north of NW Elm Avenue. If this is done, the only project they would be approving is the one located on SE Skyline Drive, south of Lee Boulevard. The other project would not be approved by this resolution.

Wells stated there may be someone in the audience that may want to comment on either of the projects.

SUBSTITUTE MOTION by Haywood SECOND by Shoemate to approve the resolution with the exception of the language for NW 40<sup>th</sup> Street. AYE: Zarle, Haywood, Shoemate, Givens. NAY: Wells, Tennis, Burk. MOTION FAILED (five affirmative votes to approve a resolution or ordinance).

VOTE ON ORIGINAL MOTION: AYE: Givens, Zarle, Wells, Shoemate, Tennis, Burk. NAY: Haywood MOTION CARRIED.

Mayor Fitch clarified that this is not a rezoning request, this is strictly a request to show support and need for the Lawton-Fort Sill community. He stated the properties are zoned correctly and they could do these projects on either site, the only problem is they are not getting as many points toward their tax credits.

Burk stated they could still get the tax credits without the council s support.

Mitchell stated it is hypothetically possible that they could still receive approval of their application even without the local support.

Mayor Fitch stated we need affordable housing for the military

David Carter, 813 NW 41<sup>st</sup>, stated they have Motif Manor already in their neighborhood and they are dealing with that problem. They do not want to get double whammied

Wells stated he would like have a copy of the OHFA Chapter 36 because the commentary indicates that if they do not have the local support they won t get the points.

Libby stated it just means without the support they may not get the major amount of points that they would need to get the project through.

Wells stated he would like to have a copy of those regulations.

Mitchell stated each of these projects are rated on a point system depending on if there is shopping nearby, public transportation, etc. This resolution is just another way to get points for a project. Even if they had approved the resolution it did not mean they would have won approval for the project.

15. Consider accepting the left turn lane and maintenance bond for the Cache Road Shopping Center located in the 4000 block of NW Cache Road. Exhibits: Location Map. Maintenance Bond is on file in City Clerk s Office.

16. Consider awarding the contract for the City s workers comp accidental death insurance coverage to Zurich American Insurance Company. Exhibits: Proposal summary from Candy Brown, Safety & Risk Officer. Exhibits: Proposal summary from Candy Brown, Safety & Risk Officer.

17. Consider awarding contract (CL11-035) Manhole Lining Materials (Item 1) Portland Cement Based to Quadex, Inc of North Little Rock, AR. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

18. Consider awarding contract (CL11-035) Manhole Lining Materials (Item 2) Calcium Aluminate Cement Based and (Item 3) Calcium Aluminate Product to The Strong Co., Inc of Pine Bluff, AR. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

19. Consider extending contract (CL10-045) Cement Kiln Dust to Silver Star Construction Co., Inc. of Moore, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

20. Consider awarding contract (CL11-039) Police Motorcycle to ProTeam Harley-Davidson of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

21. Consider awarding contract (CL11-037) Mowing & Litter Contract Area M to Teen Challenge of Oklahoma from Cache, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

22. Consider awarding contract (CL11-037) Mowing & Litter Contract Area N to UCI Service Group, Inc. of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

23. Consider awarding contract (CL11-037) Mowing & Litter Contract Area Q to Hardage Landscaping. of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

24. Consider extending contract (RFPCL10-041) Rental or Lease Work Clothing to Cintas Corporation of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

25. Consider extending contract (CL10-005) Mowing Contract Area P to LC Lawn Care of Altus, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

26. Consider extending contract (CL10-005) Mowing Contract Area O to Teen Challenge of Oklahoma from Cache, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

27. Consider awarding contract (RFPCL11-038) HVAC Services to Johnson Controls of Oklahoma City, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

28. Consider awarding contract (RFPCL11-042) Integrated Library Systems to ByWater Solutions of Westhaven, CT. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

29. Consider approving appointments to boards and commissions. Exhibits: None.

**Arts and Humanities Council**

Phyllis Wahahrockah - Tasi  
2513 McIntosh Road  
Elgin, Oklahoma 73538  
06/30/14

**Citizens' Committee On Capital Improvement Program (CIP)**

Erica Mendez  
720 NW 36<sup>th</sup> Street  
Lawton, Oklahoma 73505  
06/28/2014

30. Consider approval of payroll for the periods of June 13 26, 2011.

OLD BUSINESS ITEMS:

31. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, to establish fees for temporary uses. Exhibits: Resolution No. 11-\_\_\_\_.

Richard Rogalski, Planning Director, stated on May 24, 2011, the City Council adopted an ordinance regulating temporary structures and uses. A companion item was a resolution amending Appendix A, Schedule of Fees and Charges, to establish fees for the temporary uses. During discussion at the May 24th meeting, Council appointed council members Burk and Tennis to work with staff to revise the proposed fees. The resolution has been revised per that discussion.

Burk stated they felt that these fees are more reasonable. He stated there was discussion about the square footage of the area that can be used during the six week period.

Rogalski stated those changes are reflected in the ordinance on agenda item #37. He stated this is a much better fee structure.

Wells stated that the fees for non-profit organizations may be reduced by 50%. He stated in the past qualifying non-profit organizations have come before the council and have the entire fee waived. He questioned if the council would still have the authority to waive the fees.

Rogalski stated this is referring to the deposit.

Burk stated as long as they clean up the area they will receive the entire deposit back.

Wells questioned if they could waive the deposit.

Burk stated he would not want to waive the deposit. They may not clean everything up. He stated they have waived the fees for permits.

MOVED by Burk, SECOND by Givens to adopt **Resolution 11-54.** AYE: Haywood, Wells, Shoemate, Tennis, Burk, Givens, Zarle. NAY: None. MOTION CARRIED

NEW BUSINESS ITEMS:

32. Hold a public hearing and consider an ordinance changing the zoning from C-3 (Planned Community Shopping Center District) and C-4 (Tourist Commercial District) to C-5 (General Commercial District) zoning classification located at the southwest corner of NW 72<sup>nd</sup> Street and NW Quanah Parker Trailway. Exhibits: Ordinance No. 11-\_\_\_\_,  
Site Plan, Location Map, Application, Draft CPC Minutes and Letter from Greg Millnamow.

Rogalski stated this request is for a 9.625 acre tract located at the southwest corner of NW 72<sup>nd</sup> Street and Quanah Parker Trailway. The purpose of the request is for a used car dealership to be located on approximately 2 acres on the northeast corner of the tract. The applicant is James Norton. The zoning of the surrounding area is R-1 to the north and south, C-4 to the east, and C-3 to the west. The subject property is adjacent to a single-family residential neighborhood, and a binding site plan is a requirement of this rezoning. Currently the site plan only shows development of portion of the requested area. The applicant has been made aware that as a result of this rezoning, any future development of the portion of the property shown as undeveloped on the site plan will need to follow the provisions of Section 18-1-1-114.1 of the Lawton City Code, which for a significant amendment to a detailed site plan, will require public hearings before the

CPC and City Council.

On June 16, 2011, the City Planning Commission (CPC) held a public hearing on this request. During the public hearing one person spoke in favor of the request, and no one spoke against the request. A letter was received from a property owner in Creekwood Development stating his concerns about the request. The CPC, by a vote of 7-0, recommended approval of the rezoning subject to the following conditions:

- a. Providing control of site lighting such that light trespass on any nearby residential property is limited to 0.1 foot candles.
- b. Extending the access drive parallel to Quanah Parker Trailway to the west to eventually connect to Sun Boulevard at the time of development of the portion of the subject property currently shown as undeveloped on the site plan.

Notice of public hearing was mailed to 52 owners of property within 300 feet of the requested area on May 27, 2011, and proper notice was published in *The Lawton Constitution* on June 1, 2011.

Zarle questioned if they were going to take care of the lighting and the noise problem if this was approved. He stated he did receive one call regarding the lights.

Rogalski stated the lighting restriction would apply to this parcel only. They could look at the code with reference to a lighting ordinance.

Givens stated he is still not satisfied that there is enough notice to any party that might purchase the property who is unaware of the binding site plan. Just because they are filed with the County Clerk that does not mean it will be in the abstract or they would have notice of the binding site plan the way things are set up.

Rogalski stated the zoning ordinance with the binding site plan would be part of the county record that you would look for. That is basically the best they can do.

Wells stated the CPC recommended approval of this project subject to the conditions listed, but he does not see those in the binding site plan.

Rogalski stated those notes would be added to the site plan prior to recordation.

Givens stated he would like staff to check and see if this is included in the abstract and if not, what we can do to make sure it does appear.

Jensen stated they do make sure they are filing these with the binding site plan. He will have staff check on the abstract issue. He stated when the council moves to pass the ordinance there are two conditions that are not in that binding site plan yet, so he would recommend that they pass the ordinance with those conditions which will give staff authority to include those on the binding site plan.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Haywood questioned if Mike Brown was the developer.

Mr. Brown stated yes.

MOVED by Zarle, SECOND by Haywood to adopt **Ordinance 11-25** with the two additional conditions recommended by CPC, waive the reading of the ordinance, read the title only. AYE: Wells, Shoemate, Tennis, Burk, Givens, Zarle, Haywood. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-25

An ordinance changing the zoning classification from the existing classification of C-3 (Planned Community Shopping Center District) and C-4 (Tourist Commercial District) to C-5 (General Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as exhibit a; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

33. Hold a public hearing and consider an ordinance closing the right-of-way of University Drive between SW D Avenue and SW Tulane Avenue. Exhibits: Ordinance No. 11-\_\_\_\_, Application and Location Map.

Rogalski stated on May 24, 2011, the City Council set the date of June 28, 2011 to hold a public hearing and consider closing the right-of-way of University Drive between SW D Avenue and SW Tulane Avenue. This section of University Drive is located between Cameron Village and Bentley Garden. Cameron wants to close this portion

of the street to vehicular traffic for the safety of students traveling from Cameron Village to the main campus. While this section of University Drive will be closed as a public street, Cameron does not intend to vacate this portion of the right-of-way; therefore, the location of and ability to maintain all utilities will remain as currently exists. Notice of public hearing was mailed on May 27, 2011, to one property owner within 300 feet of the requested closing and to the utility companies, and proper notice was published in *The Lawton Constitution* on June 12, 2011. No objections to the requested closing have been received. Cameron is working with the Fire Marshal to determine the requirements for the fire lane.

PUBLIC HEARING OPENED.

Dr. Cindy Ross, Cameron University President, stated they have undergone a tremendous transformation at Cameron University including over \$55 million in construction. They have had great past partnerships with the City of Lawton including the construction of the CETES conference center and Cameron Village. This project will increase the safety for their students and citizens as well as the beauty of extending Bentley Gardens.

PUBLIC HEARING CLOSED.

MOVED by Givens, SECOND by Wells to adopt **Ordinance 11-26**, waive the reading of the ordinance, read the title only. AYE: Shoemate, Tennis, Burk Givens, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 11-26

An ordinance closing a portion of University Drive right-of-way between SW D avenue and SW Tulane Avenue, more particularly described in section one hereof.

34. Consider repealing Resolution 09-54 and adopting a resolution establishing new annual fund allocations of all future hotel/motel tax collections and authorizing the Mayor and City Clerk to execute the resolution. Exhibits: Resolution 11-\_\_\_\_.

Wells stated he would like to see them come up with a definition of tourism and economic development so that they have some way to determine if these funds are going to organizations that are really providing that service to the city. He stated if they are going to give out public money they need to make sure it is going to organizations that are actually doing what they are giving the money for.

Mayor Fitch stated he was in the chamber board meeting today and an issue was brought up regarding Lawton Rangers. A funding request under tourism this year was \$5,000 for Lawton Rangers. He stated there was a \$10,000 allocation to Lawton Rangers on their list for tourism dollars. This is all out of the same pot. He stated the chamber has requested that we share information on who we are funded.

Wells questioned if the chamber has tourism funds out of the 70% they get.

Mayor Fitch stated yes.

Wells stated you have all kinds of organizations giving out public money and we don t have a definition of those categories.

Tennis stated an application process could eliminate this problem. They could ask if the organization is receiving funding from someplace else.

Mayor Fitch stated all the funding approved by the council is done at one time and the same organization could go to the chamber some other time of the year and request funding.

Wells stated they need to determine if the funding is actually being used to promote tourism.

Givens stated this resolution has nothing to do with this subject.

Wells stated he just feels they need to look at definitions.

Mayor Fitch stated an application would provide the council with a lot of data

Burk stated he does not think they can all be 100% in agreement on the definitions. The chamber may have a different definition of tourism. He stated the City Attorney has done a great job advising them if an organization qualifies for benefits. He stated he feels the application should include specific parameters of what the money is being used for.

Wells stated he is just concerned that they know what is being done with public funds.

Givens suggested a council committee work on the application.

Givens, Burk and Tennis agreed to serve on the committee.

Givens stated he feels that the three or four groups that have requested money this year should come back with a simple application. He stated the chamber has a good application. They would need to change some wording.

Jensen stated the only contract he has had some direction on is with the chamber and the museum. He has no other specific direction on the other groups.

Burk suggested they have them fill out the application and they come back at another meeting and they go from there to decide exact dollar amounts. They are only approving the percentages tonight.

MOVED by Givens, SECOND by Tennis to adopt **Resolution 11-55** repealing Resolution 09-54 and establishing new annual fund allocations of all future hotel/motel tax collections. AYE: Tennis, Burk, Givens, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED

Givens stated there are some people in the audience regarding item #34. He just wanted to clarify that they just set the percentages. He stated the council committee will get an application together and have discussions about the various requests at the next meeting.

35. Discussion, consideration and possible action regarding Lawton City Code, 18-4-1-404.1A.8, Specific Accessory Uses, as it pertains to the regulation of carport structures within residential subdivisions. Exhibits: 18-4-1-404.1A.8, Lawton City Code, 2005.

Wells stated he wanted this brought up to the council so they could give staff some direction. For about thirty years permits were being issued to build carports that were not in accordance with city code. The decision was made to start enforcing the way the code reads which has caused a lot of problems in his ward as well as throughout the city.

MOVED by Wells to direct staff to continue issuing permits the way they have for the past approximately thirty years and have the council committee or City Planning Commission (CPC) come back to the council with a recommendation within the next month on how the code should be changed or modified.

Burk questioned if the CPC would be the group that should be looking at this issue and making a recommendation to council since they oversee zoning and those types of issues.

Rogalski stated the CPC should be the ones to recommend changes to chapters 18 and 21.

Wells questioned if staff could get this item to the CPC and let council know when it will be discussed.

Burk stated he agrees this should be looked at because they need to get this right. He stated several people have been denied because of this new rule.

Rogalski stated there have been two or three denied, but they do appeal to the Board of Adjustment. He stated it would be beneficial to have a committee with a council member.

(Rogalski presented photos of examples of carports).

Wells questioned if Rogalski had a problem with his motion.

Rogalski questioned if they could issue a building permit for something that does not meet city code. He stated this is an issue for the City Attorney. He stated the issue here is the width of the right of way. On a right of way that was greater than 60 feet, they could permit that. The mistake that was made was that they were allowed on smaller streets and the carport ended up much closer to the curb. He stated council member Wells motion would direct staff to continue to issue building permits for houses that are located on streets with 50 foot right of ways. He stated the code is clear and he is not sure how they would do that.

Burk questioned how long it would take to get a committee together and bring something back so they can do something with the three or four that have been denied.

Wells stated some of them are already going to the Board of Adjustment to be approved.

Rogalski stated to try and address the issue, they have waived fees for the Board of Adjustment. This is the most forgiving way that he could come up with to address the issue.

Wells stated these people just want some protection for their cars. He hopes that he can get a series of articles written in the newspaper regarding how much property people really don't own because of these right of ways and easements.

Rogalski clarified that the only part of the code that council member Wells wants relaxed is the width of the right of way.

Wells stated staff would still enforce the type of structure.

Rogalski stated accessory code states they have to be open on three sides, attached to the main structure and it must harmonize with the main structure.

Wells stated if there are those that were built in the neighborhood with permits, why would they suddenly deny others.

Burk questioned if they really need to do this if these are going to Board of Adjustment and they are waiving the fees. They are probably going to be allowed to build.

Wells stated this could take months.

Mitchell stated the other option would be to suspend any permits issued on carports until they get this thing worked out. He feels it would be a mistake to ask staff to turn their heads and not enforce the code as it is written.

Wells stated he feels it was a mistake for the staff to start changing the way they were enforcing it without coming to city council.

Mitchell stated just because they made a mistake a hundred times, doesn't mean they need to make it another hundred times. The mistake was corrected.

Givens requested an opinion from the City Attorney.

Jensen stated staff is not at liberty to not enforce every provision in that ordinance unless the council tells them tonight, by council member Wells motion, not to enforce that portion of the ordinance.

Givens questioned if you could do that without changing the ordinance.

Jensen stated that is not his recommended solution, his solution would be to go the Board of Adjustment route and waive the fee. He stated there is a counterpoint to the effect that over the past twenty years or so staff has not been enforcing that provision, so he is not going to sit here tonight and say they can't not enforce that provision, but it is the council's call, not the staff. If they approve council member Wells's motion, that would be a direction to staff. That is not his recommendation to solve this problem.

Wells stated they do not need to punish people right now that want to do this.

Mitchell stated council member Wells is asking staff to issue permits even though it does not follow code.

Jensen stated and not require compliance with that one element of the code.

Wells stated the way they have done it for thirty years.

Mayor Fitch stated the way they have done it is not right.

(Wells motion failed due to a lack of a second. No action to be taken.)

Givens requested item #38 be addresses next because of people in attendance for that item.

38. Consider approving a recommendation from the City Planning Commission and the Parks and Recreation Commission to transfer the balance of funds from the Park Fee Fund into the Lawton Enhancement Trust Authority to be used towards funding the Playground in the Park project at Elmer Thomas Park, and authorize the execution of an agreement to accomplish the fund transfer. Exhibits: Proposed agreement on file in the City Clerk's office.

Kim Shahan, Parks and Recreation Director, stated on May 24, 2011 the City Council voted unanimously to allow funds from the Park Fee Fund to be expended by the City Council for improvements to neighborhood, community, metropolitan and regional parks with a service area that includes the subdivision dedicating said funds. During

the City Planning Commission meeting on March 24, 2011, the recommendation to use the balance of funds, \$85,646.00, for the Playground in the Park project in Elmer Thomas was agreed on by all the commission. The Playground in the Park project is sponsored by the Board of Realtors and is being developed in concert with the City of Lawton Parks and Recreation Department to be placed in the center of the park south of Lake Helen in Elmer Thomas Park. The size of this playground unit will be similar in size of the existing Kids Zone playground located in Greer Park. The total estimated cost of the Playground in the Park project is \$400,000.00. In addition to the amount of \$85,646.00 to be transferred to LETA as partial funding for the project, the Board of Realtors is actively soliciting and receiving donations to fund the remainder of the project costs.

Givens questioned if anymore funds will be accumulated this year for this fund.

Rogalski stated they are currently reviewing a couple of record plats.

Givens questioned if they could come back and request any more money that is accumulated.

Shahan stated in the 2012 CIP proposal, \$200,000 has been recommended for this project.

Mayor Fitch stated if they collect any more funds, he assumes they could request those funds from the council.

Givens requested that they be notified if any additional funds come in.

Rogalski stated yes. He will mention it when the record plat comes before council.

MOVED by Zarle, SECOND by Givens to approve a recommendation from the City Planning Commission and the Parks and Recreation Commission to transfer the balance of funds from the Park Fee Fund into the Lawton Enhancement Trust Authority. AYE: Burk, Givens, Zarle, Haywood, Shoemate, Tennis. ABSENT: Wells. MOTION CARRIED

Shahan thanked members of the Board of Realtors for all their work.

36. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to implement increases in water and sewer rates along with water related service fees as set forth in Exhibit A of the Resolution, and establishing an effective date. Exhibits: Resolution 2011-\_\_\_ and Exhibit A.

MOVED by Givens, SECOND by Haywood to adopt **Resolution 11-56** as amended by the Lawton Water Authority. AYE: Givens, Haywood, Shoemate, Burk. NAY: Zarle, Wells, Tennis. MOTION FAILED. (Lack of five affirmative votes.)

Wells stated he would like to change his vote (Vote had been announced).

37. Consider an ordinance amending Section 7-12-2-1250 of the Lawton City Code modifying the maximum area allowed for temporary uses. Exhibits: Ordinance 11-\_\_.

Rogalski stated on May 24, 2011, the City Council adopted Ordinance No. 11-18 establishing Division 7-12-2, Chapter 7, Temporary Structures and Uses. Subsequent to the adoption of the ordinance, it was found that the maximum area for the temporary uses was too restrictive. The proposed ordinance modifies the area of the open display from 1,000 square feet to 2,500 square feet and establishes the maximum area for temporary structures at 2,500 square feet for a total maximum area of 5,000 square feet.

Burk stated they have had recent discussion on the maximum area and questioned if they should be restricting open display to a maximum of 5,000 square feet.

Rogalski stated the council could modify the ordinance.

Burk suggested they modify open display to 5,000 and the area for temporary structures to 5,000 for a total maximum of 10,000 square feet.

Zarle stated the property Bedrock Nursery leased was far more than 5,000 square feet.

Rogalski stated staff would not have a problem with the maximum of 10,000 square feet. He stated they do want to limit the scale of temporary uses.

Wells stated he hates to see the council do something like this for one business.

MOVED by Burk, SECOND by Zarle, to adopt **Ordinance 11-27**, amending total area for the temporary structures and outdoor display areas associated with this use shall be a maximum of 10,000 square feet, waive the reading of the

ordinance, read the title only, and declaring an emergency. AYE: Zarle, Haywood, Shoemate, Tennis, Burk, Givens. NAY: Wells. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-27

An ordinance pertaining to businesses, amending Section 7-12-2-1250, Chapter 7, Lawton City Code, 2005, modifying the maximum total area for temporary structures and temporary uses; providing for severability; and declaring an emergency.

Jensen stated the council rules and procedures say that a council member may change his vote only before the results of the vote are announced by the presiding officer. He stated that did not happen with the vote on item #36. He stated they need to have a motion to reconsider which must be made on the same day and by a member who voted with the majority.

MOVED by Givens, SECOND by Haywood to reconsider item #36. AYE: Haywood, Wells, Shoemate, Tennis, Burk, Givens. NAY: Zarle. MOTION CARRIED

MOVED by Givens, SECOND by Haywood to adopt **Resolution 11-56** as amended by the Lawton Water Authority. AYE: Wells, Shoemate, Burk, Givens, Haywood. NAY: Tennis, Zarle. MOTION CARRIED.

#### AUDIENCE PARTICIPATION:

Melissa Clements, Youth Services Coordinator, distributed information regarding the Children s Art Fair which was held last April. She invited the council to the American Band Music Festival to be held on the following Friday and Saturday.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Zarle announced the city wide clean up will begin on July 1<sup>st</sup> for the west side of town.

Haywood stated a good example of some low/moderate income apartments are at 622 Bishop Road.

Shoemate thanked all the area fire and police who worked during the grass fires. He is very proud of those in southwest Oklahoma.

Mayor Fitch reminded everyone that a burn ban is in effect for Comanche County. He stated the fines are very severe and parents will be responsible.

Shoemate questioned if we are responsible for the designated areas where we allowed fireworks.

Mitchell distributed an executive summary of the management audit for the Animal Welfare Division. He stated pumping from Waurika Lake will start on July 5<sup>th</sup>. He stated he would like to schedule a council workshop for July 13<sup>th</sup> at 1:30 p.m. to continue discussion on the 2012 CIP. He stated that the CIP and council election will be held in October at the request of the county election board.

The Mayor and Council convened in executive session at 8:03 p.m. and reconvened in regular, open session at 8:27 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

39. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Frank V. Jensen as City Attorney, and in open session take other action as necessary. Exhibits: None.

Mayor Fitch read the title of item 39. No action was taken.

There being no further business to consider, the meeting adjourned at 8:28 p.m. upon motion, second and roll call vote.

/s/ Fred L. Fitch  
FRED L. FITCH, MAYOR

ATTEST:

/s/ Traci L. Hushbeck  
TRACI HUSHBECK, CITY CLERK

